

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

R. CATHY REARDON, on behalf of herself)
and all similarly situated individuals,)
Plaintiffs,) Civil Action No. 2:08-cv-1730
vs.) Hon. Mark R. Hornack
CLOSETMAID CORPORATION,) United States District Judge
Defendant.) ***Filed Electronically***

**SUPPLEMENTAL APPENDIX OF RECORD MATERIALS IN SUPPORT
OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Dated: June 24, 2013

Respectfully submitted,

**OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.**

/s/ W. Scott Hardy

W. Scott Hardy, Esq.
PA I.D. No. 79225
scott.hardy@ogletreedeakins.com

Philip K. Kontul, Esq.
PA I.D. No. 94156
philip.kontul@ogletreedeakins.com

One PPG Place
Suite 1900
Pittsburgh, PA 15222
Telephone: (412) 394-3333
Facsimile: (412) 232-1799

Attorneys for Defendant
ClosetMaid Corporation

Tab 16 - Excerpts of Mary K. Price April 3, 2013 Deposition Transcript

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
3 R. CATHY REARDON, on behalf of Civil Division
4 herself and all similarly No. 2:08-cv-1730GLL
5 situated individuals Judge Gary L. Lancaster
6 Plaintiff

7 vs.

8 CLOSETMAID CORPORATION and
9 EMERSON ELECTRIC CO.

10 Defendants

11 _____ /

12 PROCEEDINGS: DEPOSITION OF MARY K. PRICE
13 TAKEN: ON BEHALF OF THE PLAINTIFF
14 DATE: WEDNESDAY, APRIL 3, 2013
15 TIME: 9:05 A.M. - 10:52 A.M.
16 PLACE: 7 EAST SILVER SPRINGS BOULEVARD, SUITE 501
17 SILVER SPRINGS BOULEVARD, OCALA, FLORIDA
18 BEFORE: D. F. COOLAHAN, COURT REPORTER

19

20

21

22

23

24

25

1 Q Yes.

2 A It depended on the position.

3 Q But I'm saying in every instance that you're
4 aware, was that their standard practice?

5 A Yes.

6 Q To obtain --

7 A To run.

8 Q What was -- in looking at -- did you have
9 practice looking at consumer reports about a prospective
10 employee? Was that part of your job?

11 A Not at my level.

12 Q Did you train staff on how to look at a consumer
13 report?

14 A We were trained.

15 Q You were trained. Who trained you?

16 A We had several forms of training. We subscribed
17 to SHRM. We have a local human resources organization. We
18 used Ford and Harrison attorneys, webinars.

19 Q Ford and Harrison?

20 A Uh-huh.

21 Q They're attorneys?

22 A Uh-huh.

23 Q What's SHRM?

24 A Society of Human Resource Management.

25 Q And through those organizations you learned how

1 A This one is an application.

2 Q Is this the contract with the consumer reporting
3 agency to obtain background checks?

4 A It's an application.

5 Q This is the application. How long is the
6 application? Where does it go to?

7 A 190.

8 Q Then there's some appendixes that apply to that?

9 A It's attached.

10 Q Then a credit report addendum?

11 A Correct.

12 Q Then some additional documents, access security
13 requirements, notice to users of consumer reports;
14 obligations under the FCRA, right, 201?

15 A Uh-huh.

16 Q Then a summary of rights under the Fair Credit
17 Reporting act?

18 A Uh-huh.

19 MR. PIETZ: Go off the record a second.

20 (Discussion held off the record.)

21 Q Do you recognize this document, the one we just
22 talked about?

23 A The one we just talked about?

24 Q Yes.

25 A Yes.

1 Q How do you recognize it?

2 A I see it now that I signed it.

3 Q Why was it that you were the one that signed
4 this?

5 A I don't know why I signed it. I mean I was
6 available.

7 Q Were you assigned by the company to deal with the
8 credit reporting agency from whom Closetmaid was going to
9 obtain the consumer reports?

10 A Was I what?

11 Q Were you assigned to deal with the credit
12 reporting agency in so far as this --

13 A I completed the application.

14 Q And you signed it?

15 A Yes.

16 Q You were given the authority to sign it by the
17 company?

18 A Yes.

19 Q And did you review this entire document before
20 you signed it?

21 A I initialed it.

22 Q Did you take this document back to the company
23 and discuss it with anyone?

24 A I can't remember. 2004.

25 Q And on page 190, that's your signature?

1 A Yes.

2 Q By that signature you were signing off on this
3 authorization and acceptance of terms that were right above
4 it?

5 A Yes.

6 Q It says under that authorization I hereby
7 certify that I am authorized to execute this agreement on
8 behalf of the customer listed above and that the statements
9 I have provided in this agreement are true and correct.

10 You made that certification by your signature?

11 A Yes.

12 Q And it goes on. Further, I hereby certify that
13 the customer agrees to be bound to the terms and conditions
14 set forth in this agreement. You certified that by your
15 signature?

16 A Yes.

17 Q And you were authorized to make that
18 certification by the company?

19 A Yes.

20 Q Going on to the next page, appendix A, when you
21 were signing off on this document did you carefully review
22 that appendix A?

23 A Yes.

24 Q Did you discuss that with the company, anyone
25 else at your company?

1 A I can't remember that.

2 Q This deals -- this is called permissible purpose
3 in employment, correct?

4 A (Nodding head indicating yes.)

5 Q It goes on to say customer hereby expressly
6 acknowledges and agrees that, in addition to the terms and
7 conditions of this Securint application and service
8 agreement, use of the Securint Services for employment
9 purposes is also subject to the following provisions. Did
10 you see that when you signed this document?

11 A I must have.

12 Q And you agreed to be bound by this provision by
13 signing, didn't you?

14 A I must have.

15 Q And it was important to be aware of what this
16 provided because you were signing on behalf of the company,
17 correct?

18 A Correct.

19 Q Now, it goes on to talk about certain
20 provisions. Let's go to number one. It says prior to
21 procuring a consumer report, a clear and conspicuous
22 disclosure, consisting solely of the disclosure, that a
23 consumer report might be obtained for employment purposes
24 must be made to the applicant. Did you understand that was
25 a requirement of this contract?

1 A You're asking me if I understand something years
2 ago.

3 Q Okay.

4 A So I signed it, so I must have understood it.

5 Q Did you examine that requirement that was the
6 number one provision and then go back and make sure that
7 the company's policy complied with that provision?

8 A I can't remember that one.

9 Q Do you remember doing anything to be concerned
10 that perhaps the company's policies didn't comply with that
11 provision?

12 A We made sure our policies complied.

13 Q How did you do that?

14 A We just followed the procedure.

15 Q Were you concerned when you signed this contract
16 that the policies may not be complying with these
17 provisions that are in appendix A?

18 A I don't understand your question.

19 Q Did you have any concern when you signed off on
20 this that the company's policies with respect to procuring
21 consumer reports didn't comply with this number one,
22 number one on appendix A?

23 A You're asking me if I had concern?

24 Q Yes.

25 A That our policies didn't comply?

1 Q Yes.

2 A No, I didn't.

3 Q This didn't alert you to make sure that the
4 policies complied with this contract?

5 A Our policies complied with the contract.

6 Q How do you know that?

7 A Because we complied.

8 Q Did you consult with a lawyer?

9 A We did the same thing that I told you before. We
10 sought legal advice from many different streams.

11 Q Who did you seek legal advice from?

12 A The ones that I listed, Ford Harrison attorneys,
13 the SHRM attorney, Employers Association of Florida,
14 business and legal reports. All of the above.

15 MR. PIETZ: This is the next exhibit. This will
16 be --

17 MR. KONTUL: This is three.

18 Q This is exhibit three. Boring exhibit seven.

19 (Price exhibit three was marked for
20 identification.)

21 Q Take a second and look at your deposition exhibit
22 three. Take a second and look at that. My question is do
23 you recognize this form that's being used, not necessarily
24 the handwritten information, but I'm asking about this
25 form, particularly the last page, 424. Looking at this

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing SUPPLEMENTAL APPENDIX OF RECORD MATERIALS IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was filed electronically on June 24, 2013. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ W. Scott Hardy

Attorney for Defendant ClosetMaid Corporation